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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-------------------------|---------------------|------------------|
| 09/659,649      | 09/12/2000  | Jean-Francois Le Pennec | FR9-1998-0072-US1   | 6968             |

7590 06/28/2004

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| EXAMINER |
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FLYNN, KIMBERLY D

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2153

DATE MAILED: 06/28/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/659,649

Applicant(s)

LE PENNEC ET AL.

Examiner

Kimberly D Flynn

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This action is in response to an Amendment and Request for Continued Examination filed June 10, 2004.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logue et al. U.S. Patent No. 5,935,207 in view of Shannon U.S. Patent No. 5,852,713.

In considering claims 9 and 11, the combined system of Logue and Shannon discloses a method for providing a file, wherein is stored information according to which said file is locally stored when said file is received from a remote server, said method comprising the following steps:

receiving a request for said file comprising said remote server identification (see Logue col. 2, lines 36-40),

checking that the file is locally stored (see Logue col. 5, lines 43-49),

while Logue discloses the system substantially as claimed Logue does not disclose

forwarding the file to said remote server when said file has been locally modified, and

deleting the information according to which said file is locally stored. Nonetheless, the

forementioned limitations are well known in the art as evidenced by Shannon.

In similar art, Shannon whose invention is a computer data file backup system and method discloses wherein a new logical disk map is created at the next scheduled time of updating, the new disk map is compared to the current client disk map, and if any of the attributes of the file has changed, the file is listed as being modified and is transmitted to the remote server computer disk image. Shannon further discloses wherein any files on the current client disk map that are not on the newly created disk map are deleted.

Given the teaching of Shannon it would have been obvious to a person having ordinary skill in the art to modify the system as disclosed by Logue to include the data file backup process as disclosed by Shannon in order to have an improved data file backup system that keeps both systems, the client and the remote system, concurrent. Accordingly, the modification would also allow for automatic updating of file that have been changed between updates ensuring that requested information is always current and up-to-date. Therefore, the limitations would have been obvious modifications to the system as disclosed by Logue.

In considering claims 10 and 12, the combined system of Logue and Shannon further discloses a step for sending said information to said remote server when said file has not been locally modified (see Shannon col. 5, lines 51-60).

### ***Conclusion***

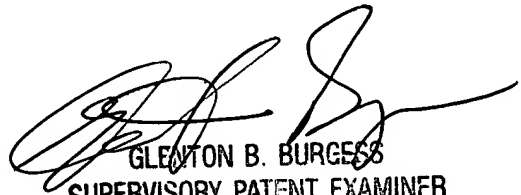
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D Flynn whose telephone number is 703-308-7609. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kimberly D Flynn  
Examiner  
Art Unit 2153

KDF



GLEN B. BURGESS  
SUPERVISORY PATENT EXAMINER  
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